

Office of the Secretary of Labor

§ 37.82

the Director in the event the agreement is breached. In such circumstances, the following rules will apply:

(i) The non-breaching party may file a complaint with the Director within 30 days of the date on which the non-breaching party learns of the alleged breach;

(ii) The Director must evaluate the circumstances to determine whether the agreement has been breached. If he or she determines that the agreement has been breached, the complainant may file a complaint with CRC based upon his/her original allegation(s), and the Director will waive the time deadline for filing such a complaint.

(3) If the parties do not reach an agreement under ADR, the complainant may file a complaint with the Director as described in §§37.71 through 37.74.

§37.77 Who is responsible for developing and publishing complaint processing procedures for service providers?

The Governor or the LWIA grant recipient, as provided in the State's Methods of Administration, must develop and publish, on behalf of its service providers, the complaint processing procedures required in §37.76. The service providers must then follow those procedures.

§37.78 Does a recipient have any special obligations in cases in which the recipient determines that it has no jurisdiction over a complaint?

Yes. If a recipient determines that it does not have jurisdiction over a complaint, it must notify the complainant, in writing, immediately. This Notice of Lack of Jurisdiction must include:

(a) A statement of the reasons for that determination, and

(b) Notice that the complainant has a right to file a complaint with CRC within 30 days of the date on which the complainant receives the Notice.

§37.79 If, before the 90-day period has expired, a recipient issues a Notice of Final Action with which the complainant is dissatisfied, how long does the complainant have to file a complaint with the Director?

If, during the 90-day period, the recipient issues its Notice of Final Action, but the complainant is dissatisfied with the recipient's decision on the complaint, the complainant or his/her representative may file a complaint with the Director within 30 days after the date on which the complainant receives the Notice.

§37.80 What happens if a recipient fails to issue a Notice of Final Action within 90 days of the date on which a complaint was filed?

If, by the end of 90 days from the date on which the complainant filed the complaint, the recipient has failed to issue a Notice of Final Action, the complainant or his/her representative may file a complaint with the Director within 30 days of the expiration of the 90-day period. In other words, the complaint must be filed with the Director within 120 days of the date on which the complaint was filed with the recipient.

§37.81 Are there any circumstances under which the Director may extend the time limit for filing a complaint with him or her?

Yes. The Director may extend the 30-day time limit:

(a) If the recipient does not include in its Notice of Final Action the required notice about the complainant's right to file with the Director, as described in §37.76(b)(5)(ii); or

(b) For other good cause shown.

The complainant has the burden of proving to the Director that the time limit should be extended.

§37.82 Does the Director accept every complaint for resolution?

No. The Director must determine whether CRC will accept a particular complaint for resolution. For example, a complaint need not be accepted if: